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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/789,229

02/27/2004

Charles R. Weir

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01/09/2009

OWENS CORNING
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EXAMINER

COLE, ELIZABETH M

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

01/09/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/789,229	Applicant(s) WEIR ET AL.	
	Examiner Elizabeth M. Cole	Art Unit 1794	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-3 are rejected under 35 U.S.C. 102(e) as anticipated by US 7,093,397 issued to Nordgren et al.

Nordgren et al. teach general sheathings that are used in structures and more particularly to prefabricated housings, site built houses and in remodeling [col. 1, lines 15+]. In paragraph 0007 the instant reference discloses that such sheathing is adapted to be fastened to at least one-watt supporting structure, which comprises at least two layers with additional layer envisioned. In Figure 5 and column 6, lines 55+ ("polymeric foam layer"), the reference teaches that which is equivalent to Applicant's claimed layers in Claims 1-3. The Examiner is equating layer 12, which may be a polymeric scrim, made of polyolefin's [col 5, lines 28+], and is equivalent to Applicant's decorative layer. This layer is adjacent to an adhesive layer 16, which is equivalent to Applicant's adhesive layer found on the first surface of the insulative core. Layer 18 follows this, which is equivalent to Applicant's core layer. On the opposite side of the core layer the

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reference teaches that additional layers may be present (layers 14 and 18). Therefore, Nordgren et al. anticipate claims 1-3.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claim 4 is rejected under 35 U.S.C. 103(a) as obvious over Nordgren et al. in view of USPN 5665447 issued to Greaves et al.

Nordgren et al teach what is set forth above, but fail to disclose that the inner or additional layers of their composite are fiberglass. Nordgren et al teach that the inner layers of the composite may be chosen for specific properties such as radiant barrier, or flame retardancy etc.

Greaves et al, USPN 5665447, remedy this. USPN 5665447 teaches insulative products which are multilayered composites, comprising a core and adjacent layers which are may be fiberglass, rock, slag basalt, etc., (column 4, lines 15-30). Therefore, a person having ordinary skill in the art at the time the invention was made would have found it obvious to have used the fiberglass layer of Greaves, in the composite of Nordgren et al. One would have been motivated to do so to create an insulation system that was soundproof. Additionally, it is well known in the art of fibers that fiberglass is flame retardant.

1. Applicant's arguments filed 11/2/07 have been fully considered but they are not persuasive. Applicant argues that layer 12 of Nordgren is a structural rather than decorative layer. However, layer 12 will have at least some decorative properties to at

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least some people. The term "decorative" is a subjective one, since what is decorative to one might not be decorative to another. The layer 12 can be considered to have at least some decorative properties and therefore meets the claimed limitation. Further, while Applicant draws a distinction between structural layers and decorative layers, any layer will be structural in that it will be part of the structure and also decorative in that it will have a particular appearance.

2. Applicant argues that the combination of Nordgren and Greaves fails because Nordgren does not disclose an exposed decorative layer. However, this argument is not persuasive for the reasons set forth above.

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

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The examiner's supervisor Rena Dye may be reached at (571) 272-3186.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.

/Elizabeth M. Cole/
Primary Examiner, Art Unit 1794

e.m.c